

### **REMARKS**

The drawings are objected to under 37 CFR 1.83(a) for not showing every feature of the claimed invention. Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number 6,000,623 to Blatti et al. (hereinafter “Blatti”) in view of United States Patent Number 5,646,823 to Amori (hereinafter “Amori”) and in further view of United States Patent Number 5,963,528 to Fujimura (hereinafter “Fujimura”). Claims 1, 2, 4-7, 10-14, and 16-19 are rejected under 35 U.S.C. § 103(a) as being anticipated by Blatti in view of Amori. Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Blatti in view of Amori and in further view of United States Patent Number 6,301,108 to Stockbridge (hereinafter “Stockbridge”).

For the Examiner’s convenience and reference, Applicant’s remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Applicants thank the examiner for the interview of April 28, 2006. As a result of the interview, Applicants request that claims 1, 14, 16, and 20 be amended to put the application in condition for allowance. The amendments are fully supported by the specification. Specifically, Figure 2 shows the orifice disposed in a vertical plane of an outer wall of an enclosure. Fig. 2, Ref. 115. Figures 2 and 3 show the orifice cover pivoting about a lower edge with the orifice

cover horizontally disposed in an open position and vertically disposed in a closed position. Figs. 2 and 3, Ref. 120. Figures 2, 3 and 6 further show the seal disposed on the orifice cover. Figs. 2, 3, and 6, Ref. 150.

#### Response to objections to drawings

The drawings are objected to for not showing the motor. Figures 6 and 7 are added to show the motor 605. In addition, Figures 6 and 7 and Figures 2 and 4 as amended show the seal 150. Applicants submit that the drawings as amended show every feature of the invention as specified in the claims.

#### Response to rejections of claims under 35 U.S.C. § 103(a)

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Blatti in view of Amori and in further view of Fujimura. Claims 1, 2, 4-7, 10-14, and 16-19 are rejected under 35 U.S.C. § 103(a) as being anticipated by Blatti in view of Amori. Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Blatti in view of Amori and in further view of Stockbridge. Applicants respectfully traverse these rejections.

With regards to claim 20, the claim includes the limitation “...a cover actuator comprising a motor and configured to move the orifice cover from the open position to the closed position *in response to removal of an air moving device...*” Claim 20, emphasis added. Stockbridge does not teach a motor moving a cover to a closed position in response to the

removal of an air moving device but rather in response to a high temperatures such as from a fire. Stockbridge, Col. 3, Lines 2-5. Blatti and Amori also do not disclose a motor moving a cover to a closed position in response to removal of an air moving device.

The teaching or suggestion to combine the cover for maintaining air pressure of Blatti and the motor actuated cover of Stockbridge can only be found in the Applicants' disclosure. It is "impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention." *Uniroyal v. Rudkin-Wiley*, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988) (citing *W. L. Gore & Associates v. Garlock, Inc.*, 220 USPQ 303, 312). There is no suggestion in Blatti, Amori, and Stockbridge to combine the motor actuated cover for fire suppression of Stockbridge with the cover for maintaining air pressure.

The motor actuated cover of Stockbridge also represents different fields of endeavor from the present invention. Specifically, the motor actuated cover of Stockbridge is directed to fire suppression while the motor actuated cover of the present invention is directed to maintaining positive air pressure. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Because Blatti, Amori, and Stockbridge do not teach a motor moving a cover to a closed position in response to the removal of an air moving device, the suggestion to combine Stockbridge with Blatti is only found in the Applicants' disclosure, and Stockbridge and the embodiment of the present invention represent different fields of endeavor, Applicants assert that

claim 20 is allowable.

With regards to claims 1, 14, 16, and 20, the claims as amended include the limitations “...the orifice disposed in a vertical plane of an outer wall of the enclosure...,” “...an orifice cover configured to pivot about a lower edge...,” and “...a seal disposed on the orifice cover...” Claim 1 as amended.

In contrast Blatti teaches a orifice disposed on an inner wall that pivots about a side edge. Amori teaches a seal separate from a cover. Neither Blatti nor Amori teach an orifice disposed in an outer wall with a cover that pivots about a lower edge and a seal disposed on the cover. Therefore Applicants assert that claims 1, 14, 16, and 20 are allowable as amended.

With regards to claim 3, Applicants submit that Blatti and Amori should not be considered in view of Fujimura as the torsion spring disclosed by Fujimura embodies substantially different functions, structures, and results from the present invention. Specifically, Fujimura is directed to a disc apparatus tray, whereas the present invention is directed to an orifice cover for an air moving device. The Federal Circuit has held that inventions with different structures and different results were not equivalent. *Lehman v. Dunham's Athleisure Corp.*, Civ. App. No 96-1381, 6 (Fed. Cir. Oct. 11, 1996). Therefore Applicants assert that claim 3 is allowable as it is not appropriate to combine Fujimura with Blatti and Amori, and because claim 3 depends from allowable claim 1.

As a result of the presented remarks, Applicant asserts that independent claims 1, 14, 16, and 20 and dependent claim 3 are in condition for prompt allowance. Applicants have not

specifically traversed the rejections of dependent claims 2, 6, 7, 10-13, and 17-19, but submit that these claims are allowable as depending from allowable claims. Should additional information be required regarding the traversal of the rejections of the dependent claims enumerated above, Examiner is respectfully asked to notify Applicant of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

\_\_\_/Brian C. Kunzler/\_\_\_

Brian C. Kunzler  
Reg. No. 38,527  
Attorney for Applicant

Date: May 11, 2006  
8 East Broadway, Suite 600  
Salt Lake City, UT 84111  
Telephone (801) 994-4646  
Fax (801) 322-105